

Community-Based Foster Care

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Includes Definition of Case Management (TFC 264.152)

Case Management means the provision of case management services to

- Child in TMC or PMC
- Child's family
- Young adult in extended foster care
- Relative or kinship caregiver
- Child placed in the catchment through the ICPC

Includes

- Caseworker visits with the child
- Family and caregiver visits
- Convening and conducting permanency planning meetings
- Development and revision of the family plan of service, including permanency plan and goals
- Coordination and monitoring of services



Includes Assumption of Court Related Duties (Defined in TFC 264.152(2)(F); TFC 264.161)

- Required notifications or consultations
 - 263.0021 – Provide all entitled timely notice of hearings under Chapter 263
 - 263.004 – Notify court of name of Education Decision-maker
 - 263.007 – Provide report regarding notification of relatives per 262.1095
 - 264.018 – Notice of Significant Event (no placement for at least 24 hours, medical condition)
 - 264.107 – Placement consultation with AAL / GAL unless emergency
 - 264.123 – Missing or Victim of Child Sex Trafficking report to various including NCMEC
 - 266.004 – Notify court of Medical Consenter
- Preparing court reports
- Attending judicial hearings, including review hearings, trial and mediation
- Complying with applicable court orders
- Ensuring the child is progressing toward his/her permanency goal within state and federal timelines
- Any other function or service DFPS deems necessary to allow SSCC to assume responsibility for case management



Contract Must Include Certain Provisions (TFC 264.155)

- Must include a provision that specifically requires the SSCC and its contractors to comply with any applicable court order imposing a requirement on DFPS that relates to functions assumed by the contractor



Department Represented in Court in Same Manner (264.163)

- Legal representation of DFPS in an action under this code shall be provided in accordance with Family Code Section 264.009 in those areas of the state where an SSCC is providing community based care
 - If DFPS is represented by an elected prosecutor (District or County Attorney), that's who will represent going forward
 - If DFPS is represented by a regional attorney, that's who will represent going forward



SSCC and subcontractors will have attorney-client privilege with legal counsel (TFC 264.167)

- An employ, agent, or representative of an SSCC is considered to be a client's representative of DFPS for purposes of the privilege under Rule 503 of the Texas Rules of Evidence, as that privilege applies to communications with a prosecuting attorney or other attorney representing DFPS, or the attorney's representatives, in a proceeding under this subtitle



No Direct or Individual Review/Approval of Placement Decisions (TFC 264.168)

- SSCC has freedom to decide placement of the child
- Likely that contract will require notice of placement change
- But, placement changes must also comply with notice and consultation provisions in the Family Code



DFPS Must Develop Internal Dispute Resolution Process (TFC 264.168(c))

- This is to resolve disputes between the contractor and DFPS, but this process will not necessarily resolve disputes between other parties and the contractor



DFPS May Review, Approve, or Disapprove Child's Permanency Goal (TFC 264.168)

- Neither review nor approval is mandatory
- Statute allows DFPS to include in the contract any necessary oversight measures and review processes to maintain compliance with federal and state requirements
- DFPS staffing plan is to maintain a small quality assurance and contract monitoring team for each catchment area



Benefits v Risks

- **Potential Benefits:**
 - Kids are cared for in their home community
 - Greater sense of buy-in, good relationships with SSCC will improve delivery of services - more tailored, readily available, high quality and thus more effective
 - If capacity exists, the child stays in school of origin or at least school district, can more easily attend court hearings, more fully participate in planning the goals of case
 - Benefit to Courts – AALs travel less to visit client which may reduce legal fees
- **Potential Risks:**
 - Permanency is delayed until trust in the new system is established
 - Court appearances for parties increase as attorneys seek to engage the courts to protect client's rights, especially once client is expected to work with a 3rd party provider
 - Provider may have a conflict of interest in providing services to both the child's bio family and the foster family
 - Preliminary plan: SSCC will have a foster home worker who supports the foster family and a caseworker working toward the permanency goal. Will not be the same person.



Other States?

- Some states have reported drastic drop in numbers of kids in care
 - Florida has done a great job increasing adoptions – something Texas is already pretty good at too
 - Florida has lowered its caseloads, but they have high caseworker turnover, like other states
 - Fewer than half of the kids in foster care in Florida exit care in less than 12 months, and that is about where Texas is too



Will Texas Do It Better?

- Texas has built more protection into the process and rollout than other states
 - Requirement for detailed implementation plans
 - Community engagement plan requirements
 - Several evaluations along the way and discretion to determine when/if a provider's plan is sufficient, including placement services
 - Only after placement services pass evaluation can the Dept turn over case management to the SSCC
- Judicial engagement is priority

